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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,269	03/24/2004	Mike Hertel	801-1001	4106

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WASHINGTON, DC 20006

EXAMINER
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HOLLOWAY III, EDWIN C

ART UNIT	PAPER NUMBER
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2612

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/807,269

Applicant(s)

HERTEL ET AL.

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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**EXAMINER'S RESPONSE**

1. In response to applicant's amendment filed 12-28-06, all the amendments to the specification and claims have been entered. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 39-74 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification as originally filed lacks an enabling disclosure of the claimed local key. A detailed description of how the local key is used with the disclosed invention is not provided in the written

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description. Amending the specification to add that a local key may be used which may be one of an electric key, another electric key and a manual key is not an enabling disclosure of how to make and use a local key.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-2, 5, 18-22, 25 and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A) in combination with Dawson (US005170431A) and Bucholtz (US005422632A).

Clemens discloses security system with an electronic key reader 20' sending a code to a control unit (remote switch) 30 that controls a critical part of a manual key K operated unit I. See figs. 1C, 3A and cols. 8-11. Clemens does not expressly disclose a microprocessor.

Dawson discloses an analogous art security system that may be used in a vehicle and includes a microprocessor 100 in fig. 11 and col. 2 and 4 to provide programmable control.

Bucholtz discloses an analogous art security system controlled by a microprocessor that checks for a valid key in step 110, and if valid it enables ignition for a limited time (steps 126-136). Step 128 check if for a signal indicating the

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ignition is turned on by used of a manual switch 42 operated by a mechanical key in col. 1 with the set time. If yes, the time is extend in step 126, if not the time is decremented. See fig. 5A. Programming keys into the system is also provided. See cols. 1-2 and 9-12.

Regarding claims 1-2, 5, 18-22 and 33-37, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Clemens the microprocessor of Dawson for programmable control that is suggested by the single semiconductor chip remote switch. The microprocessor receiving a signal indicating use of a manual or second key within a time period would have been obvious view of Bucholtz for increased security against theft. The methods of claims 33-37 would have been obvious in view of the flow charts of Dawson and Bucholtz showing new key detection and programming operations. Regarding claim 33, incrementing a count is suggested by setting an invalid key flag in step 170 and/or adding to the audit log in step 130 of Dawson. Each attempt adds to the audit log, thus increasing a count. Disabling if key used a number of times is provided by the temporary key function in steps 120-130 of Dawson. Enabling for a set time would have been obvious in view of the timers in Clemens and/or Bucholtz and/or time block in Dawson. Regarding claim 34,

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vehicle and compartment would have been obvious in view of Dawson and Bucholtz referring to ignition and door lock. Predetermined time is provided by the time limits or blocks of Clemens, Dawson Bucholtz. Regarding claims 35-37, plural compartments or rooms with plural key types would have been obvious in view of the plural key categories for to operate room door locks having matching or lower level category in col. 8.

6. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A) in combination with Dawson (US005170431A).

Clemens discloses security system with an electronic key reader 20' sending a code to a control unit (remote switch) 30 that controls a critical part of a manual key K operated unit I. See figs. 1C, 3A and cols. 8-11. Clemens does not expressly disclose a microprocessor.

Dawson discloses an analogous art security system that may be used in a vehicle and includes a microprocessor 100 in fig. 11 and col. 2 and 4 to provide programmable control.

Regarding claims 38, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Clemens input of two electronic keys in view of the dual key mode of Dawson requiring two electronic keys and

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predetermined time would have been obvious in view of the time block 164 of Dawson suggested the timers of Clemens for increased security.

7. Claims 3-4 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A) and Bucholtz (US005422632A) as applied above and further in view of Lee (US 5204663).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above correct/incorrect LED's as shown in fig. 7 step 3006 of Lee in order to indicate the status of the code comparison.

8. Claims 6-7 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A) and Bucholtz (US005422632A) as applied above and further in view of Akutsu (US 4866433).

Akutsu discloses a vehicle locking system with electronic key card controlled storage components (7,8) that obviously can store guns. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above storage components of Akutsu

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for increased security.

9. Claims 8-17 and 26-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A) and Bucholtz (US005422632A) as applied above and further in view of Benore (US005905446A).

Benore discloses a security system with plural key readers and plural lock components. See fig. 1. The lock components include code comparators, but microprocessor controllers are not expressly disclosed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above the control of plural compartment of Benore for increased security and suggested by the plural door locks of Dawson.

10. Claims 39-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A) and Bucholtz (US005422632A) as applied above.

As best understood from applicant's amendment, local key is directed to one of an electric key, another electric key and a manual key that would have been obvious in view of the electric, another electric and manual keys disclosed in Clemens, Dawson



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and/or Bucholtz. Any further limitations would have been obvious for the same reasons applied above to claims 1-2, 5, 18-22, 25 and 33-37. Operation in response dual electric keys, both electric key and manual key, single electric or single manual key would have been obvious in view of Dawson disclosing single or dual electric key mode and Clemens and Bucholtz referring to prior art with single electric or manual key. One of ordinary skill would recognize that more keys increase security, but less keys are easier to use. Some devices operable or not operable by a key would have been obvious in view of the key and lock categories in Dawson discussed above. A lock would be operable for keys that are valid for that lock. The nested categories or levels of Dawson provide internal and external components.

11. Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A) and Bucholtz (US005422632A) as applied above in view of Miron (US005477041A).

Disabling the locking device when the number of key signals different from the reference signal would have been obvious in view of the shut down counter in fig. 16 and cols. 21 and 30 of Miron to increase security by shutting down when tampering is

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detected.

12. Claims 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A) and Bucholtz (US005422632A) as applied above and further in view of Akutsu (US 4866433).

Claim 51 would have been obvious for the same reasons applied above to claim 7.

***Response to Arguments***

13. Applicant's arguments filed 12-28-06 have been fully considered but they are not persuasive and/or are moot in view of the new ground(s) of rejection.

The amendment to the specification does not provide an enabling disclosure of a local key of claims 39-74. Prior art was not previous applied to these claims because the these claims were not understood by the examiner, but prior art rejections are applied in this action based on interpretation of the claims as best understood from applicants response.

The prior art rejections have been modified to respond to the issues raised by applicant's arguments. Bucholtz is applied to clearly teach microprocessor detecting signal from manual operation.

Miron was applied to teach a shut down counter in claim 44,

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but is not necessary for the other count claims in view of the audit log in Dawson. Miron also includes a 6 second limit between two keys in the dual key mode, but has not been applied for this limitation because the time block of Dawson and/or time limit of Bucholtz are sufficient for the claims.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

#### **Conclusion**

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this

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action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### **CONTACT INFORMATION**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 703-305-3028 or toll free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at [ebc@uspto.gov](mailto:ebc@uspto.gov). The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications. Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (571) 272-2600.

Facsimile submissions may be sent via central fax number 571-273-8300 to customer service for entry by technical support staff. Questions related to the operation of the facsimile system should be directed to the Electronic Business Center at (866) 217-9197. On July 15, 2005, the Central FAX Number will change to.

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Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number. Inquiries concerning only hours and location of the Customer Window may be directed to OIPE Customer Service at (703) 308-1202.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (703) 272-3058. The examiner can normally be reached on M-F (8:30:-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Zimmerman can be reached on (571) 272 - 3059.

EH

3/16/07

  
EDWIN C. HOLLOWAY, III  
PRIMARY EXAMINER  
ART UNIT 2612